

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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February 4, 2003 LB 126, 243

Mr. Clerk.

CLERK: 28 ayes, 0 nays, Madam President, on the advancement of LB 126.

SENATOR SCHIMEK: The bill does advance. Next item.

CLERK: LB 243, a bill by Senator Janssen. (Read title.) The bill was introduced on January 13, referred to General Affairs, advanced to General File. I have no amendments to the bill at this time.

SENATOR SCHIMEK: Thank you. Senator Janssen to open on your bill.

SENATOR JANSSEN: Thank you, Senator Schimek, members of the body. LB 243 is a technical bill. The State Racing Commission imposes fines upon licensees for violations of the act. Currently, the fines are remitted to the State Treasurer to be placed in the permanent school fund. This bill would direct the State Treasurer to simply dispose of these fines in accordance with Article VII, section 5 of the Constitution of Nebraska. Let me give you a little bit of background on this issue. Section 2-1203 used to require that the fine monies in the fund be deposited in the fund for alcohol and drug rehabilitation services for the horse racing industry. The Attorney General pointed out in 1996 that the fines were constitutionally required, under Article VII, section 5 of the Nebraska Constitution, to go to the counties where the fines were imposed for the support of the common schools in that county. Therefore, in 2001, the Legislature passed LB 295, which amended the section to direct the fine monies to the permanent school fund, in order to take care of these concerns. Well, we thought that this took care of the problem. However, in March of this year there was another Attorney General Opinion, informal opinion, issued to the State Treasurer. This decision was brought to my attention by the Auditor's Office this fall. This informal opinion concluded that the statutes currently are ambiguous, and essentially, the permanent school fund is not the proper location for these fines to be placed, since transfers may not be made out of the fund to counties in accordance with